

Please enter the following amendments and remarks:

**STATUS OF THE CLAIMS**

Claims 1-19 are pending in the Application.

Claims 1-19 have been rejected by the Examiner.

Claim 14 has been objected to by the Examiner.

Claims 1, 14, 15 and 16 have been amended herein.

Reconsideration of the present Application is respectfully requested.

**REMARKS**

Claim 14 has been objected to because of informalities. Claims 1-7, 11-13 and 15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cowe (U.S. Patent No. 5,671,362). Claims 14 and 16-19 have been rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (U.S. Patent No. 6,563,417). Claims 8-10 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cowe (U.S. Patent No. 5,671,362) in view of Markman (U.S. Patent Publication No. 2003/0158795). Applicant respectfully traverses these rejections for at least the following reasons.

**1. Objection to Claim 14**

The Applicant has herein amended Claim 14 to correct the noted informality. Applicant therefore deems this objection to be overcome.

**2. *Rejections based on 35 U.S.C. 102(b)***

Claims 1-7, 11-13 and 15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cowe (U.S. Patent No. 5,671,362). Claims 14 and 16-19 have been rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (U.S. Patent No. 6,563,417). Applicant respectfully traverses these rejections for at least the following reasons.

Anticipation under 35 U.S.C. § 102 requires the cited art teach every aspect of the claimed invention. See, M.P.E.P. §706.02(a). In other words, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See, M.P.E.P. §2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

A. Rejections based on Cowe

Claims 1-7, 11-13 and 15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cowe (U.S. Patent No. 5,671,362). Applicant respectfully traverses these rejections for at least the following reasons.

Claim 1 and dependents therefrom

Amended Claim 1, recites in part

a deliveror, suitable for gathering the at least one material flow item from said at least one receiving station and moving the at least material flow item within the material management system through the at least one portion that transmits the at least one attribute to the remote operation center, and that receives the at least one updated attribute from the remote operation center;

wherein the at least one attribute and the at least one updated attribute are reconciled at the receiving station by scanning an identification of the at least one receiving station, and the at least one material flow item, and the deliveror, and

wherein said at least one attribute includes at least an identification barcode.

Applicant respectfully submits that support for the current amendments may be found generally within the specification of the current application.

Amended Claim 1 recites a “**deliveror**” ... “wherein the at least one attribute and the at least one updated attribute are reconciled at the receiving station by **scanning an identification of the at least one receiving station, and the at least one material flow item, and the deliveror.**” Emphasis Added. Applicant respectfully submits that a scanned deliveror, the scanning of the receiving station and the scanning of the item is a combination distinct from and not taught in the art of record.

Specifically in this regard, Cowe teaches a “shelf unit [that] outputs product traffic information.” Col. 5, lines 27 –28. Cowe teaches that this monitoring is performed “by sensing the presence or absence of individual product items in storage on the shelf unit.” Col. 5, lines 39 – 41. Applicant respectfully submits that the teaching in Cowe is directed solely to sensing whether, for example, three or five items are in a certain location, instead of determining the details, i.e. “attributes”, of uniquely what each item is and where it is, as is claimed in the present invention. As such, in contrast to the teaching of Cowe, Applicant respectfully submits that the present application is directed to unique and specific identification of items, locations, and delivery mechanisms to allow for tracking via a “scanning” thereof. See generally Amended Claim 1. Applicant submits that this is distinct from merely determining whether the number of items in a single, known location provide a requisite number of units to provide reordering information, as is done in Cowe. The present application thus involves unique, individualized tracking via scanning of items, locations, and delivery mechanisms throughout a system by using the attributes of the item. See generally page 5.

Applicant thus respectfully submits that Cowe does not teach tracking by scanning, but rather teaches an inventory system to determine if things are located

on a single shelf, or just one location. In the present application, Applicant has set forth a system where items are scanned as they move, station to station and by item and deliveror. In the present application the item's whereabouts are thus known at all times, not just whether the product is sitting on a pre-determined shelf.

The present Office Action suggests that "Cowe specifically teaches tracking movements of materials inventory in real-time environment". Applicant respectfully submits that while Cowe may recognize the removal of an inventory item from a shelf, this item is not "tracked" via scanning. Cowe provides no mechanism for a real-time tracking in that Cowe solely recognizes that the item has been removed from the shelf, without providing where the item is moving to. This is particularly evident as Cowe repeatedly recites "product withdrawal information". See generally Cowe; Col. 4, lines 6 and 21. As such, Cowe is a binary realm, wherein an item is present or not present.

According to the present invention, an item is not binary, but rather is tracked in real time. The present invention is directed to knowing where the item is located, where it is moving to and from, and who is moving the item. For example, the remote operation center is the location where the item enters the materials management system. The item then moves, via a deliveror, to at least one receiving station, which in turn updates the attributes of the item, including the receiving station and the deliveror.

Inapposite, Cowe teaches a shelf and sensors to recognize whether or not items are located at a certain address on a certain shelf. Basically, Cowe identifies how full a shelf is with respect to goods resident on that shelf. This is very clearly not tracking or scanning as in the present claims. Cowe monitors a location for the existence of an item. No tracking is involved, as Cowe does not follow a moving trail of the item. The present invention, in fact, follows the moving trail, and hence it tracks the item as the item moves. Applicant respectfully submits that Amended Claim 1 is not anticipated by Cowe for at least the reason set forth hereinabove.

As set forth hereinabove, Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection with respect to Claim 1 for at least the foregoing reasons. Similarly, Applicant respectfully submits that Claim 1 is patentably distinguishable over the prior art of record. Analogously, Applicant respectfully submits that Claim 2 – 7 and 11-13 similarly overcome the prior art, at least because of these Claims' ultimate dependence on patentably distinguishable base Claim 1.

#### Claim 15

With respect to Claim 15, the present Office Action sets forth a rejection similar to that discussed hereinabove with respect to Claim 1. Applicant respectfully submits that Claim 15 is similarly not anticipated by the prior art cited for at least the reasons set forth with respect to Claim 1.

B. Rejections based on Shaw

Claims 14 and 16-19 have been rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (U.S. Patent No. 6,563,417). Applicant respectfully traverses these rejections for at least the following reasons.

Claim 14

With respect to Amended Claim 14, the present Office Action sets forth a rejection similar to that discussed above, and thus Applicant respectfully traverses.

Amended Claim 14 recites, in part,

scanning the at least one inventoried item upon entry into the materials management flow at a first local receiving station and scanning the first local receiving station, said first local receiving station located at a first of the distinct geographic locations;

scanning the at least one inventory item upon exit from the first local receiving station;

scanning the at least one inventoried item at at least one secondary receiving station prior to delivery of the item and scanning the secondary receiving station, said secondary receiving station located at a second geographic location distinct from the first geographic location;

scanning the at least one inventory item upon exit from the second local receiving station;

Applicant respectfully submits that support for the current amendments may be found generally within the specification of the current application.

The present action recites portions of Shaw in rejecting Claim 14. Applicant respectfully submits that the invention described in Shaw is directed to an interrogatable system wherein the RFID tags are tracked throughout a data exchange. *See Shaw generally.* In such a system there is no scanning of anything. The RFID tags of Shaw emit signals that are detected. In the claimed system, scanning is performed on the item being tracked and at the stations that the item passes through, and the stations and deliveror are likewise scanned. In so doing, it is possible to identify where a package is at all times. Shaw is directed to monitoring the location of data flow, it does not do so by scanning, nor does Shaw scan each deliveror, or each intermediate location.

Additionally, Applicant's tracking system, as claimed, concludes with the delivery of an inventory item. Upon delivery the present claim recites "scanning the at least one least one tertiary receiving station". This step is not recited in Shaw, nor does the present office action suggest that the step is recited in Shaw. Further, the present office action does not recite any teaching rendering this step obvious or anticipated. Applicant respectfully submits that the lack of a teaching in the prior art of the step of "scanning" the final "receiving station" renders Claim 14 non-obvious and not anticipated by the prior art.



Applicant thus respectfully submits that Claim 14 is not anticipated by the prior art cited for at least the reasons set forth with respect to Claim 1 and further for the reasons set forth hereinabove.

Claim 16 and dependents therefrom

With respect to Claim 16, the present Office Action sets forth a rejection similar to that discussed hereinabove with respect to Claim 1 and 14. Applicant submits that because Claim 16 is patentably distinguishable over the prior art of record for at least the reasons set forth with respect to Claim 1 and 14, the rejection set forth for Claims 17-19 is similarly overcome, at least in part because of these Claims' ultimate dependence on patentably distinguishable base Claim 16.

Wherefore, Applicant respectfully requests reconsideration and removal of the 35 U.S.C. 102(b) rejections, as Claims 1, 14, 15 and 16 are patentably distinguishable over the prior art of record.

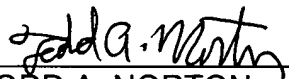
Wherefore, Applicant respectfully requests reconsideration and removal of the 35 U.S.C. 103 rejections, as Claims 1 and 16 are patentably distinguishable over the prior art of record, for at least the reasons set forth hereinabove. Applicant further submits each of Claims 2 – 13 and 17 – 19 is

similarly distinguishable over the prior art of record, at least by virtue of these Claims' ultimate dependency from a patentably distinct base Claim 1 or 16.

### **Conclusion**

Applicant respectfully requests reconsideration of the present Application in light of the reasons set forth herein, and a Notice of Allowance for all pending claims is earnestly solicited.

Respectfully Submitted,

  
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